

MONTANA LEGISLATIVE HISTORY

Chapter 341 19 97Bill H 2606 S _____ Original bill & history X CH. Committee on JUDICIARYHearing Date(s) 1/31 X CEXEC ACTION 2/4 X C

_____ C

_____ C

Date Out _____ C

S. Committee on JUDICIARYHearing Date(s) 3/6 X CEXEC ACTION 3/14 X C

_____ C

_____ C

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

ALSO INCLUDED: 4/18 VETO LETTER

HB 267	HISTORY AND FINAL STATUS 1997	322
HB 267	INTRODUCED BY MASOLO REGULATE OPERATORS OF AMUSEMENT RIDES LC0701 DRAFTER: MACMASTER	
1/15	INTRODUCED	
1/15	FIRST READING	
1/15	REFERRED TO TRANSPORTATION	
1/29	HEARING	
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED	
2/24	2ND READING PASSED AS AMENDED	84 13
2/26	3RD READING PASSED	87 12
	TRANSMITTED TO SENATE	
3/03	FIRST READING	
3/03	REFERRED TO BUSINESS & INDUSTRY	
3/11	HEARING	
3/25	TABLED IN COMMITTEE	
	DIED IN COMMITTEE	
HB 268	INTRODUCED BY KOTTEL PROVIDE FOR MEDROXYPROGESTERONE ACETATE TREATMENT OR ITS CHEMICAL EQUIVALENT FOR CERTAIN SEX OFFENDERS LC0580 DRAFTER: MACMASTER	
1/15	INTRODUCED	
1/15	FIRST READING	
1/15	REFERRED TO JUDICIARY	
1/15	FISCAL NOTE REQUESTED	
1/21	FISCAL NOTE RECEIVED	
1/28	FISCAL NOTE PRINTED	
1/31	HEARING	
2/05	COMMITTEE REPORT—BILL PASSED	
2/14	FISCAL NOTE PRINTED	
2/15	2ND READING PASSED AS AMENDED	97 2
2/18	3RD READING PASSED	96 3
	TRANSMITTED TO SENATE	
2/19	FIRST READING	
2/19	REFERRED TO JUDICIARY	
3/06	HEARING	
3/17	COMMITTEE REPORT—BILL CONCURRED AS AMENDED	
3/20	2ND READING CONCURRED	46 4
3/21	3RD READING CONCURRED	42 7
	RETURNED TO HOUSE WITH AMENDMENTS	
4/08	2ND READING AMENDMENTS CONCURRED	94 4
4/09	3RD READING CONCURRED AS AMENDED	89 10
4/15	SIGNED BY SPEAKER	
4/15	SIGNED BY PRESIDENT	
4/16	TRANSMITTED TO GOVERNOR	
4/18	VETOED	
4/19	VETO OVERRIDDEN BY HOUSE	82 14
4/21	VETO OVERRIDDEN BY SENATE	42 7
	CHAPTER NUMBER 341	
	EFFECTIVE DATE: 10/01/97	
HB 269	INTRODUCED BY KNOX, ET AL. REVISE THE METHOD OF DETERMINING THE BID DEPOSIT FOR LEASING STATE GRAZING AND AGRICULTURAL LANDS LC1020 DRAFTER: BOHYER	
1/15	INTRODUCED	
1/15	FIRST READING	
1/15	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION	
1/15	FISCAL NOTE REQUESTED	

323	HOUSE BILLS AND RESOLUTIONS	HB 271
1/20	FISCAL NOTE RECEIVED	
1/22	FISCAL NOTE PRINTED	
1/23	HEARING	
1/24	COMMITTEE REPORT—BILL PASSED	
1/27	2ND READING PASSED	90 8
1/28	3RD READING PASSED	92 7
	TRANSMITTED TO SENATE	
1/29	FIRST READING	
1/29	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION	
2/10	HEARING	
2/17	TABLED IN COMMITTEE	
	DIED IN COMMITTEE	
HB 270	INTRODUCED BY REAM, ET AL. INCLUDE SEXUAL ORIENTATION IN SOME OF THE PROTECTIONS CONTAINED IN THE HUMAN RIGHTS LAWS LC0629 DRAFTER: LANE	
1/15	INTRODUCED	
1/15	FIRST READING	
1/15	REFERRED TO JUDICIARY	
1/15	FISCAL NOTE REQUESTED	
1/21	FISCAL NOTE RECEIVED	
1/28	FISCAL NOTE PRINTED	
2/13	HEARING	
2/20	TABLED IN COMMITTEE	
2/22	MOTION FAILED TO TAKE FROM COMMITTEE & PLACE ON 2ND READING	35 62
2/27	MISSED DEADLINE FOR 45TH DAY TRANSMITTAL DIED IN COMMITTEE	
HB 271	INTRODUCED BY HARPER, ET AL. INCREASE THE PENALTY FOR THE INTENTIONAL IMPORTATION, INTRODUCTION, OR TRANSPLANTATION OF FISH IN VIOLATION OF TITLE 87, CHAPTER 5, PART 7 LC0857 DRAFTER: KURTZ	
1/15	INTRODUCED	
1/15	FIRST READING	
1/15	REFERRED TO FISH, WILDLIFE & PARKS	
1/15	FISCAL NOTE REQUESTED	
1/18	FISCAL NOTE RECEIVED	
1/21	FISCAL NOTE PRINTED	
1/30	HEARING	
1/31	COMMITTEE REPORT—BILL PASSED AS AMENDED	
2/03	2ND READING PASSED AS AMENDED	87 13
2/05	3RD READING PASSED	86 13
	TRANSMITTED TO SENATE	
2/06	FIRST READING	
2/06	REFERRED TO FISH & GAME	
2/11	HEARING	
3/05	COMMITTEE REPORT—BILL CONCURRED AS AMENDED	
3/07	2ND READING CONCURRED	50 0
3/08	3RD READING CONCURRED	44 0
	RETURNED TO HOUSE WITH AMENDMENTS	
4/09	2ND READING AMENDMENTS CONCURRED	98 2
4/11	3RD READING CONCURRED AS AMENDED	79 18
4/15	SIGNED BY SPEAKER	
4/15	SIGNED BY PRESIDENT	
4/17	TRANSMITTED TO GOVERNOR	

INTRODUCED BY

KathelHouse BILL NO. 268

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR MEDROXYPROGESTERONE ACETATE TREATMENT OR ITS CHEMICAL EQUIVALENT FOR CERTAIN SEX OFFENDERS; AMENDING SECTION 46-18-201, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-18-201, MCA, is amended to read:

"46-18-201. (Temporary) Sentences that may be imposed. (1) Whenever a person has been found guilty of an offense upon a verdict or a plea of guilty, the court may:

(a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Reasonable restrictions or conditions may include:

- (i) jail base release;
- (ii) jail time not exceeding 180 days;
- (iii) conditions for probation;
- (iv) payment of the costs of confinement;
- (v) payment of a fine as provided in 46-18-231;
- (vi) payment of costs as provided in 46-18-232 and 46-18-233;
- (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
- (viii) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;
- (ix) community service;
- (x) home arrest as provided in Title 46, chapter 18, part 10;
- (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of society;

1 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

2 or

3 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).

4 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period
5 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the
6 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable
7 restrictions or conditions may include any of those listed in subsection (1)(a).

8 (c) impose a fine as provided by law for the offense;

9 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed
10 counsel as provided in 46-8-113;

11 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit
12 the defendant to the department of corrections for placement in an appropriate correctional institution or
13 program;

14 (f) with the approval of the facility or program, order the offender to be placed in a community
15 corrections facility or program as provided in 53-30-321; or

16 (g) impose any combination of subsections (1)(b) through (1)(f).

17 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim
18 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim
19 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay
20 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

21 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be
22 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for
23 a felony, regardless of whether any other conditions are imposed.

24 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court
25 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence
26 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be
27 allowed for jail or home arrest time already served.

28 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years
29 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:
30 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3).

45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

(6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102 may not be deferred or suspended.

(7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

(9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and Title 46, chapter 23, part 5.

(10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender program. If recommended by the department of corrections and included in the sentence, the person shall also undergo medroxyprogesterone acetate treatment or its chemical equivalent for a period of time determined by the department of corrections. The period may not exceed the period of state supervision of the person.

(11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to imprisonment of the offender in the state prison, including placement of the offender in a community corrections facility or program. In considering alternatives to imprisonment, the court shall examine the sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to the state prison or the women's correctional system, the court shall state its reasons why alternatives to imprisonment were not selected, based on the criteria contained in 46-18-225.

46-18-201. (Effective July 1, 1997) Sentences that may be imposed. (1) Whenever a person has been found guilty of an offense upon a verdict or a plea of guilty, the court may:

(a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.

1 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the
2 period of the deferred imposition. Reasonable restrictions or conditions may include:

- 3 (i) jail base release;
- 4 (ii) jail time not exceeding 180 days;
- 5 (iii) conditions for probation;
- 6 (iv) payment of the costs of confinement;
- 7 (v) payment of a fine as provided in 46-18-231;
- 8 (vi) payment of costs as provided in 46-18-232 and 46-18-233;
- 9 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
- 10 (viii) with the approval of the facility or program, an order that the offender be placed in a
11 community corrections facility or program as provided in 53-30-321;
- 12 (ix) community service;
- 13 (x) home arrest as provided in Title 46, chapter 18, part 10;
- 14 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of
15 society;
- 16 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;
- 17 or
- 18 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).
- 19 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period
20 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the
21 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable
22 restrictions or conditions may include any of those listed in subsection (1)(a).
- 23 (c) impose a fine as provided by law for the offense;
- 24 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed
25 counsel as provided in 46-8-113;
- 26 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit
27 the defendant to the department of corrections for placement in an appropriate correctional institution or
28 program;
- 29 (f) with the approval of the facility or program, order the offender to be placed in a community
30 corrections facility or program as provided in 53-30-321; or

(g) impose any combination of subsections (i)(b) through (1)(f).

(2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

(3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony, regardless of whether any other conditions are imposed.

(4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be allowed for jail or home arrest time already served.

(5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years of a sentence of imprisonment imposed under the following sections may not be deferred or suspended: 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

(6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102 may not be deferred or suspended.

(7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

(9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and Title 46, chapter 23, part 5.

(10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to imprisonment in the state prison shall enroll in and complete the educational phase of the prison's sexual

1 offender program. If recommended by the department of corrections and included in the sentence, the
2 person shall also undergo medroxyprogesterone acetate treatment or its chemical equivalent for a period
3 of time determined by the department of corrections. The period may not exceed the period of state
4 supervision of the person.

5 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to
6 imprisonment of the offender in the state prison, including placement of the offender in a community
7 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the
8 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to the state prison
9 or the women's correctional system, the court shall state its reasons why alternatives to imprisonment were
10 not selected, based on the criteria contained in 46-18-225.

11 (12) Except as provided in 46-18-222, a provision of this section that conflicts with 46-18-219 does
12 not apply to a person sentenced under 46-18-219."

13

14 **NEW SECTION. Section 2. Application.** [This act] applies to offenses committed after October
15 1, 1997.

16

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0268, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for medroxyprogesterone acetate treatment or its chemical equivalent for certain sex offenders; and providing an applicability date.

ASSUMPTIONS:

1. Cost per inmate for Depo-Provera treatment is \$131 per week for an annual cost of \$6,812. Medical monitoring costs of \$300 for preliminary clearance and \$50 for each of 3 quarterly monitoring visit would also be incurred. Total annual cost per inmate would be \$7,262.
2. This bill applies to offenses committed after 10/1/97. Because of the time between commission of offense and start of incarceration, the Department of Corrections (DOC) assumes that there will be no costs incurred during fiscal year 1998.
3. Assume that this bill only applies to those offenders sentenced to prison. In fiscal year 1996 there were 100 admissions to prison for sexual offenses covered under this bill.
4. This bill only applies to offenders who the DOC recommends for treatment and the judge sentences for such treatment. The DOC assumes that this will be 25% of the offenders who are sentenced to prison.
5. The treatment costs for the offenders will be incurred while they are under DOC supervision and will begin upon admission to prison.
6. In fiscal year 1999 the DOC estimates it will provide treatment for 25 inmates at a cost \$181,550.

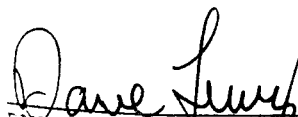
FISCAL IMPACT:

Department of Corrections:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Treatment costs	0	181,550
<u>Funding:</u>		
General Fund (01)	0	181,550

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The cost of this bill in future years will increase linearly because the treatment costs will continue while the inmate is under DOC supervision. In fiscal year 2006, the cost of this bill based on current data (without any inflation factor for the cost of treatment) could be as much as \$1,452,400.

 1-20-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

DEB KOTTEL, PRIMARY SPONSOR DATE

Fiscal Note for HB0268, as introduced

HB 268

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on January 31, 1997, at 8:00 AM, in Room 312-1.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Daniel W. McGee, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell W. Anderson (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Duane Grimes (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Brad Molnar (R)
Rep. Gerald Pease (D)
Rep. Diane Sands (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)

Staff Present: John MacMaster, Legislative Services Division
Joanne Gunderson, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 276 & HB 268 - POSTED
1/21/97; HB 343 - POSTED
1/27/97

HEARING ON HB 276

Opening Statement by Sponsor: REP. DEB KOTTEL
{Tape: 1; Side: A; Approx. Time Count: 0.1}

Proponents' Testimony:

LYNETTE LEE
{Tape: 1; Side: A; Approx. Time Count: 8.6}

EXHIBIT 1

ROBERT LEE

{Tape: 1; Side: A; Approx. Time Count: 15.8}

Questions From Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Count: 19.5-Tape 1; Side B; 3.5}

Proponents' Testimony:

CHARLES ROBINSON

{Tape: 1; Side: B; Approx. Time Count: 3.6; Comments: Due to the late arrival because of the distance traveled, this witness was allowed to testify following questions by the committee.}

Closing by Sponsor: REP. KOTTEL

{Tape: 1; Side: B; Approx. Time Count: 10.1}

HEARING ON HB 268

Opening Statement by Sponsor: REP. DEB KOTTEL

{Tape: 1; Side: B; Approx. Time Count: 14.2}

Opponents' Testimony:

SCOTT CRICHTON, ACLU

{Tape: 1; Side: B; Approx. Time Count: 22.0}

Informational Testimony:

SHARON HOFF, Montana Catholic Conference

{Tape: 1; Side: B; Approx. Time Count: 28.6}

ARLETTE RANDASH, Eagle Forum

{Tape: 1; Side: B; Approx. Time Count: 30.7}

Opponents' Testimony:

RUSSELL HILL

{Tape: 1; Side: B; Approx. Time Count: 34.2}

Informational Testimony:

NORMA JEAN BOLES, Department of Corrections

{Tape: 1; Side: B; Approx. Time Count: 36.0}

EXHIBIT 2

SANDY HEATON, Montana State Prison

{Tape: 1; Side: B; Approx. Time Count: 40.6}

Questions From Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Count: 6.7 - 33.6}

Closing by Sponsor: REP. KOTTEL

{Tape: 2; Side: A; Approx. Time Count: 33.7}

**FACTS ABOUT TEMPORARY CHEMICAL TREATMENT
FOR SEX OFFENDERS**

- Medroxyprogesterone acetate, an anti-androgen treatment, is effective in reducing sexually offending behavior only when administered weekly. Its effects are temporary.
- The most common brand name of medroxyprogesterone acetate is Depo Provera.
- Weekly injections of at least 400 mg. can be effective in suppressing the sex drive of some sex offenders
- If the sex offender is motivated by power, control or violence, this treatment is not likely to be effective.
- Depo Provera does not necessarily render an offender impotent, but reduces the sex drive to some degree. The power of this effect is contingent upon the baseline level of testosterone and the dosage of Depo Provera.
- Voluntariness of the offender is essential to the success of the treatment.
- Over-reliance on chemical treatment for sex offenders in order to move sex offenders from prison to the community would jeopardize public safety.
- The levels of dosage of Depo Provera needed to achieve "chemical castration" can cause very serious side effects, and would be contraindicated for offenders with hypertension, lung or heart disease, diabetes and other medical conditions.
- Treatment focused on anger management, criminal thinking and sex offender treatment are more likely to provide most sex offenders the opportunity to rehabilitate themselves. Without motivation on the part of the offender to change, there will be no change.
- Informed consent should be sought prior to administering Depo Provera or similar drugs to a sex offender, a medical clearance is necessary, and the offender should be deemed appropriate for chemical therapy by qualified professionals before it is provided.
- The sex offender programs at Montana State Prison and at the Women's Correctional Center are highly qualified to evaluate a sex offender for appropriateness for Depo Provera chemical treatment.
- An average dosage of 400 mg. of Depo Provera costs approximately \$111 per week, in addition to an approximate cost of \$20 for administering the injection.
- The cost of a medical clearance to take the injections costs about \$300, and quarterly monitoring visits with a physician costs about \$50.

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 1/31/97

NAME	PRESENT	ABSENT	EXCUSED
REP. BOB CLARK, CHAIRMAN	✓		
REP. DANIEL MC GEE, VICE CHAIR	✓		
REP. DIANA WYATT, VICE CHAIR	✓		
REP. CHRIS AHNER	✓		
REP. SHIELL ANDERSON	✓		
REP. ELLEN BERGMAN	✓		
REP. WILLIAM BOHARSKI	✓		
REP. AUBYN CURTISS <i>9 AM</i>	✓		✓
REP. JON ELLINGSON	✓		
REP. DUANE GRIMES	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. JOAN HURDLE	✓		
REP. DEB KOTTEL	✓		
REP. LINDA MC CULLOCH	✓		
REP. BRAD MOLNAR	✓		
REP. GERALD PEASE	✓		
REP. DIANE SANDS	✓		
REP. LIZ SMITH	✓		
REP. LOREN SOFT	✓		
REP. BILL TASH	✓		

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

JUDICIARY

COMMITTEE

DATE

1/31/97

BILL NO. HB268

SPONSOR(S)

Rep. Dick Kattell

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Mary Fay	Prob's Parole - Inform.		
Sandy Heaton	MSP - Information		
Noama Jean Bales	Dept of Corr		
Arlette Nandash	Provide Int.		
Laune Kentuck	EAGLE Forum		
Scott Christ	CC of MT		
Sharon Day	MT Cath Cong.	info only	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:visbcom.man

CS-14

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on February 4, 1997, at 7:00 AM, in Room 312-1.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Daniel W. McGee, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell W. Anderson (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Duane Grimes (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Brad Molnar (R)
Rep. Gerald Pease (D)
Rep. Diane Sands (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)

Members Excused: Rep. Boharski excused until 8:00 AM.

Members Absent: Reps. Smith and Molnar absent until 8:00 AM.

Staff Present: John MacMaster, Legislative Services Division
Joanne Gunderson, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted:	SB 36, HB 222	POSTED 1/22/97
	HB 321, HB 339	POSTED 1/28/97
Executive Action:	SB 36	BE CONCURRED IN
	HB 268	DO PASS
	HB 321	DO PASS
	HB 44	DO PASS AS AMENDED
	HB 68	DO PASS AS AMENDED
	HB 339	DO PASS AS AMENDED
	HB 273	TABLE

Vote: The motion carried 14 - 1, REP. BOHARSKI voting no.
{Tape: 4; Side: A; Approx. Time Count: 19.2; Comments: REPS.
HANSON, ANDERSON, MOLNAR, SMITH and GRIMES were absent.}

EXECUTIVE ACTION ON HB 339

Motion: REP. DIANE SANDS moved HB 339 DO PASS.

Motion: REP. MC GEE moved to amend HB 339 with an immediate effective date.
{Tape: 4; Side: A; Approx. Time Count: 23.3}

Discussion:
{Tape: 4; Side: A; Approx. Time Count: 24.0 - 26.8}

Vote: The motion carried 14 - 1. REP. BOHARSKI voting no.

Motion/Vote: REP. CHRIS AHNER moved HB 339 DO PASS AS AMENDED.
The motion carried 15 - 0.
{Tape: 4; Side: A; Approx. Time Count: 27.5}

EXECUTIVE ACTION ON HB 273

Motion: REP. MC GEE moved HB 273 DO PASS.

Motion/Vote: REP. LOREN SOFT moved to table HB 273. The motion carried 13 - 2, REPS. CURTISS and KOTTEL voting no.

EXECUTIVE ACTION ON HB 268

Motion: REP. SANDS moved HB 268 DO PASS.

Discussion:
{Tape: 4; Side: A; Approx. Time Count: Time count at the end of executive action in this meeting was not recorded.}

Vote: The motion carried 15 - 0.

Motion/Vote: REP. SOFT moved to adjourn. The motion carried by unanimous vote.



HOUSE STANDING COMMITTEE REPORT

February 4, 1997

Page 1 of 1

Mr. Speaker: We, the committee on **Judiciary** report that **House Bill 268** (first reading copy -- white) **do pass**.

Signed: _____

Bob Clark

Bob Clark, Chair

Committee Vote:
Yes 15, No 0.

261537SC.Hgd

2-4-97

HOUSE OF REPRESENTATIVES

7 AM

JUDICIARY COMMITTEE

ROLL CALL

DATE 2/4/97

NAME		PRESENT	ABSENT	EXCUSED
REP. BOB CLARK, CHAIRMAN		✓		
REP. DANIEL MC GEE, VICE CHAIR		✓		
REP. DIANA WYATT, VICE CHAIR		✓		
REP. CHRIS AHNER		✓		
REP. SHIELL ANDERSON		✓		
REP. ELLEN BERGMAN	7:10	✓		
REP. WILLIAM BOHARSKI	8:05	✓		✓
REP. AUBYN CURTISS		✓		
REP. JON ELLINGSON	7:15	✓		
REP. DUANE GRIMES		✓		
REP. H.S. "SONNY" HANSON	7:10	✓		
REP. JOAN HURDLE		✓		
REP. DEB KOTTEL		✓		
REP. LINDA MC CULLOCH		✓		
REP. BRAD MOLNAR	8:05	✓		
REP. GERALD PEASE		✓		
REP. DIANE SANDS		✓		
REP. LIZ SMITH	8:00	✓		
REP. LOREN SOFT		✓		
REP. BILL TASH		✓		

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By ACTING CHAIRMAN LORENTS GROSFIELD, on March 6, 1997, at 9:00 A.M., in Room 104.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Judy Keintz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 268, February 24
HB 111, February 24
HB 68, February 24
Executive Action: None

HEARING ON HB 268

Sponsor: REP. DEB KOTTEL, HD 45, Great Falls

Proponents: None

Opponents: Scott Crichton, ACLU

Opening Statement by Sponsor:

REP. DEB KOTTEL, HD 45, Great Falls, introduced HB 268. She stated that the committee had a policy decision to make between two bills with the same title which are very different

philosophically regarding this subject. She was referring to **SEN. JENKINS'** SB 31.

Her mother was very ill in the beginning of this session. She has smoked all of her life and was sitting in ICU with IVs, 80% of her lung capacity gone, and she said if she could have a cigarette now, she would smoke it. She knew she would die if she did and yet the addiction was so strong. The doctor gave her a nicotine patch. She is not smoking today. She couldn't do it alone. She had to have a chemical assistance to resolve not to smoke.

Chemical castration is a treatment device and not punishment. Even with the patch, if she didn't want to stop smoking, she can override that and have a cigarette. The first way that HB 268 is different from SB 31 is that it is not just the sentencing judge who orders the chemical treatment, it also takes recommendations of the Department during the sentencing hearing. Unless you voluntarily want to make a change, the chemicals can be overridden.

Why is this treatment necessary? One type of sex offender is very common to obsessive compulsive disorders (OCD). They see people in treatment with obsessive fantasies. The fantasies are so obsessive that as they are sitting through treatment, they cannot concentrate on the treatment at all because of the excessive fantasies. This bill would include other types of chemicals like prozac. Inadvertently, prozac was given to a sex offender for depression and they noticed a reduction in obsessive fantasies.

HB 268 is different from SB 31 in that it talks about any other chemicals which can be used to reduce obsessive sexual drives. **SEN. JENKINS'** bill refers to only one type of chemical use which is very expensive. Her bill allows the full array of neuropsychological agents, if medically safe, to be used to reduce sexual fantasies and sexual drive. Some of those agents, like prozac, cost pennies per day. Some men are sex offenders because of testosterone levels. Normal levels are about 600. There are people in Deer Lodge with 1200 to 1800 levels. This is an issue of biology and treatment and not one of punishment. Over 400 inmates in Deer Lodge are sex offenders. The number of sex offenders registered in the state of Montana is 2,227. When they leave prison, public safety issues are of concern.

She went through the handout which explained the differences in the two bills, **EXHIBIT 1**. Her bill parallels the registration of sex offenders. Because of the possibility of a constitutional challenge, it is important to show that this is not for punishment, but for public safety and treatment. This parallels the people who also have to be registered to include people who engage in the sexual abuse of children. This is not included in SB 31. This bill requires the treatment to be made medically safe. HB 268 also includes other medically safe drug treatment

which reduce sexual fantasies and sex drives. SB 31 states that the treatment can only be had after the second offense in some crimes. Her bill makes no distinction between the first or second offense. If the person is voluntarily willing to engage in treatment and the Department feels that that treatment would be successful, why do we have to wait for that person to sexually molest a child twice. The twice rule makes it look more like punishment.

Proponents' Testimony: None

Opponents' Testimony:

{Tape: 1; Side: a; Approx. Time Count: 9:15; Comments: .}

Scott Crichton, ACLU, stated that HB 268 is far less intrusive and punitive than SB 31. He would feel much more comfortable with the bill if it stated that it had to have the consent of the sex offender, not only the informed consent but also the medical effects which can come from the chemicals. His understanding is that for any of these treatments to work, the individual must be comfortable with the treatment. The court can say you have to go to AA, but unless you are ready, it will not help. These drugs do not stop people from having the ability to be sexually aroused or sexually aggressive. Violent sexual acts are personal violent acts. It is not consensual sex. The sexuality is secondary. This is a small piece of therapy which works for a small amount of people. At what point does the state stop paying for this? Deprafovera would cost about \$7,000 a year. It must be administered by a licensed health professional on a weekly basis. If sex offenders are registered for life, will the state pay for the treatment for life? The best methods of preventing reoffense is to make sure they are in group treatment for life.

Questions From Committee Members and Responses:

{Tape: 1; Side: a; Approx. Time Count: 9:24; Comments: .}

SEN. SHARON ESTRADA asked about the status of the bills. What happens if both bills passed?

REP. KOTTEL answered that the Governor cannot sign both, so the bills would have to go to a conference committee and one bill would then merge both concepts.

Ms. Lane clarified that the bills would not go to a conference committee unless one house amends the other house's bill. The first house rejects the amendment placed on it by the second house and then that bill will go into a conference committee. If neither bill is amended in the second house and they both pass, they would then go to the Governor and he could sign one or amend one. Being aware of the conflict, this committee has a responsibility to address the conflict. That could be amending

them so they no longer conflict or putting a coordination instruction on the bill to address the other bill.

CHAIRMAN GROSFIELD felt that another method would be to amend both bills so they would both be rejected and end up in the same conference committee.

SEN. HOLDEN stated that **SEN. JENKINS'** bill was tabled in the committee for sometime because of the voluntary aspects of the treatment. HB 268 uses the word "shall" and this would make the bill non-voluntary.

REP. KOTTEL stated that no one could receive treatment unless the Department recommends it and the judge orders it. She put both aspects in the bill because she wanted the judge involved for due process reasons and the Department involved because the Department would never recommend treatment unless the person voluntarily is willing to accept that treatment and also the Department believes it is medically suitable. Without the Department recommendation, public outcry will force judges to order chemical castration in the form of a punishment and also some sex offenders will want the treatment even though the types of sex offense which they have committed are not suitable to treatment at all. This has no impact at all on violent offenders. It has impact on OCD persons and persons with biological abnormalities. From a medical standpoint, once the person is released and under life supervision, there needs to be a way to pull the person back into the system if he decides to no longer continue the treatment. Sex offenders have stated that their lives become very gray. They need boundaries.

SEN. HOLDEN stated he might not trust the Department so he may put on the voluntary amendment which **REP. KOTTEL** could resist and thus force the bill into a conference committee.

SEN. SUE BARTLETT commented that the committee would also be hearing HB 111 which amends 46-23-502 and wondered how the two bills worked together?

REP. KOTTEL stated she included all sex crimes that are defined under that statute for registration because of the public safety issue. This would include crimes which SB 31 would not include such as sexual abuse of children and indecent exposure. If someone is serving time for indecent exposure and has OCD behavior, the idea of this bill is that if it is suitable treatment could begin early.

SEN. BARTLETT stated her concern was with HB 111 which amends the definition of sexual offense.

REP. KOTTEL stated that the section refers to two different issues which would be sex offenders and violent offenders. Her bill refers to the section but only to sex offense and not to violent offenses under that section.

SEN. BARTLETT asked **Sandy Heaton** if it makes a difference if the offender agrees to undergo the chemical treatment?

Sandy Heaton, Director of the Sex Offender Program at Montana State Prison, stated she has worked with sex offenders for 18 or 19 years. It is very important for an offender to voluntarily agree to the chemical treatment. It has to be taken frequently so compliance becomes a real issue or it can be overridden in their heads and they offend anyway. Her biggest concern is to not give people a false sense of security. This can help with some offenders under the right circumstances.

SEN. BARTLETT stated that this recommendation would be made at the time of sentencing. She wondered about offenders currently in the prison who would not have this included in their sentence.

Ms. Heaton stated that if they are in treatment and she feels it is appropriate, she can make a recommendation that the offender be given the chemical.

Dave Ohler, Department of Corrections, commented that if this was voluntary on the part of the offender there would be no issue. If someone was forced, there would be an issue. A person ready to leave the system and does not want to volunteer for treatment could be handled by including the Board of Pardons as a sentencing authority.

REP. KOTTEL stated she did not make the bill retroactive because of constitutional challenges. It would mean that judges would sentence differently under a bill like this. The Department would evaluate specifically with the persons's feasibility to treatment. The sentencing that the judge would issue might say that the person would be eligible for treatment upon the Department's recommendation. On a violent rapist, the judge would issue a sentence that does not allow the treatment provision.

SEN. REINY JABS asked why the bill was necessary if this treatment is already in place in the prison.

REP. KOTTEL said there is no provision for the payment once the person is released from prison. The Department would like this bill to authorize them to continue in this vein. Her bill has a fiscal note of \$181,000. **SEN. JENKINS'** bill was over \$300,000. She did not sign her fiscal note, because she felt people are on treatment until they are able to settle their behavior. She felt the first thing the sex offender would stop doing once out of prison is continue treatment if they could not afford the treatment.

{Tape: 1; Side: b; Approx. Time Count: 9:48; Comments: .}

There are two things which must take place. The due process of a judge in terms of a sentencing hearing and it also must take the

recommendation of the Department that this is suitable for treatment.

CHAIRMAN GROSFIELD stated one bill amends Title 45, which deals with crimes. The other amends Title 46, which is criminal procedure. He asked why the bills deal with two different titles?

Ms. Lane stated that was done at the sponsor's requests. SB 31 puts this into the criminal law sections and the penalties for criminal law. HB 268 involves a different philosophical approach and wanted the state to approach this as treatment for certain offenders. That is why it went into Title 46. The drafter felt the more direct approach of making it a penalty for the crime is the more appropriate way from a drafting standpoint to draft. The question the legislature needs to decide is what policy statement they want to make.

CHAIRMAN GROSFIELD stated the reason SB 31 was tabled dealt with surgical castration. They amended that language out. This bill is not about castration. You need to be in the right frame of mind to even have the drug work.

REP. KOTTEL stated she was sorry she succumbed to the press. She wanted the word treatment to be used instead of chemical castration.

CHAIRMAN GROSFIELD asked if the Department envisioned paying for this for the life of the offender?

Ms. Heaton stated that from a clinical standpoint the answer would be no. Legally, she doesn't know how this will be resolved. Clinically the idea is to put the person on the drug while he is in treatment. The hope is that treatment will work and there is good data that it does. All the drug is designed to do is to help the person control his behavior while he is learning other controls through treatment.

SEN. CRIPPEN said the testimony on the other bill was just the opposite. If the person was not continued on the chemical, they would go right back to where they were before. This would be an ongoing treatment for the rest of their lives. He felt the fiscal note implied the same thing.

Ms. Heaton said it would be an ongoing situation if the offender did not have treatment or want to have treatment. By forcing him to take the medication, the only hope is to drop his sex drive enough where he won't override it. Ideally, their hope is that the treatment will take over and the person will learn his own controls. A person with a high testosterone level will gradually lessen with age.

SEN. HALLIGAN stated that Dr. Salatey stated to him that there were 6 or 7 people in the prison who were on this treatment right now. He questioned the need for the bill?

Ms. Heaton stated that Dr. Salatey has 6 or 7 people in the community on this treatment. They have 3 or 4 who they think should be on the treatment in the prison.

Closing by Sponsor:

{Tape: 2; Side: b; Approx. Time Count: 10:00; Comments: .}

REP. KOTTEL stated this is a treatment device for a handful of people. The average sex offender molests 240 times before being caught and when that person leaves prison he will molest 240 times again before being caught again.

HEARING ON HB 111

Sponsor: REP. CHRIS AHNER, HD 51, Helena Valley and East Helena

Proponents: Dave Ohler, Department of Corrections
Beth Baker, Department of Justice

Opponents: Scott Crichton, ACLU

Opening Statement by Sponsor:

REP. CHRIS AHNER, HD 51, Helena Valley and East Helena, stated the bill is revising state law to comply with federal law. It revises the laws pertaining to registration of sexual and violent offenders, creates classifications of sex offenders, and imposes new requirements for addressing the verification and dissemination of how this information is recovered. It also transfers responsibility for maintaining registry from the Department of Corrections to the Department of Justice, implements the Federal Jacob Wetterling Crimes Against Children Act and Sexually Violent Offender Registration Program. Funding could be penalized if the state does not adopt the provisions to the sex offender registration laws to be consistent with the federal statutes. This could mean a loss of \$260,000 to Montana. Every person convicted of a sexual or violent offense would be required to register with the local law enforcement at the time of sentencing, if the offender is not sent to prison, or with the Department of Corrections, at least 10 days prior to release from the confinement in prison, and with the local law enforcement for out-of-state offenders who locate to Montana. Community notification will be handled at the local level by law enforcement agencies where the offender expects to reside.

Proponents' Testimony:

{Tape: 1; Side: b; Approx. Time Count: 10:04; Comments: .}

March 5, 1997

CONFLICTS BETWEEN SB 31 AND HB 268

TO: Whom it may concern

FROM: John MacMaster

These two bills, each of which provides for chemical treatment of certain sex offenders, conflict in some respects. Therefore, they cannot both be passed as they read in their current (third reading copy) versions. They must be coordinated by a coordination instruction in one of them, or by amendments in one or both of them, or by a combination of amendments and a coordination instruction in one or both of them. They can of course also be coordinated by tabling or not passing one of the bills.

The conflicts, as I see them, are as follows (The sentence on lines 19 and 20 of page 3 of HB 268 is not in SB 31, but that's not a conflict. You could have the sentence in either or both bills or neither):

(1) The two bills apply to different crimes. They do not both apply to the same crimes.

In SB 31, see page 1, lines 9 and 10; page 1, lines 14 and 15; and page 1, line 18.

In HB 540, see the sentence beginning on page 3, line 14. Then see the reference to "the person" near the beginning of the next sentence. This "person" is the person referred to in the sentence beginning on line 14.

(2) At line 16 of page 3 of HB 268, the bill provides that "If recommended by the department of corrections" the court may order chemical treatment. SB 31 does not require a department recommendation before the court can order treatment. (Under the third reading copy of each bill the court may order treatment, it does not have to.)

(3) In HB 268, at line 17 of page 3, are capitalized words requiring the treatment to be "MEDICALLY SAFE". This requirement is not in SB 31.

(4) In HB 268, at lines 17 through 19 of page 3, are capitalized words allowing the court to order "OTHER MEDICALLY SAFE DRUG TREATMENT THAT REDUCES SEXUAL FANTASIES, SEX DRIVE, OR BOTH". The "other treatment" is treatment other than "medroxyprogesterone acetate treatment or its chemical equivalent", which is allowed by both bills. SB 31 does not allow such "other treatment".

**MONTANA SENATE
1997 LEGISLATURE
JUDICIARY COMMITTEE**

ROLL CALL

DATE _____

3/6/97

SEN:1995
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CS-09

DATE _____

SENATE COMMITTEE ON

BILLS BEING HEARD TODAY:

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PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By VICE CHAIRMAN LORENTS GROSFIELD, on March 14, 1997, at 9:00 a.m., in the Senate Judiciary Chambers (Room 325) of the State Capitol, Helena, Montana.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Jody Bird, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HJR 19, HJR 28, HB 577, posted
March 4, 1997
Executive Action: HJR 19, HJR 28, HB 44, HB 268,
HB 577

HEARING ON HJR 19

Sponsor: REP. JOHN MERCER, HD 74, Polson

Proponents: Captain James Casaeu, Gallatin County Detention
Center, and for Montana Sheriffs and Peace
Officers and Montana Association of Counties
Captain Mike O'Hara, Missoula County Jail
Administrator
Winnie Ore, Department of Corrections
Riley Johnson, Wackenhut Corrections

Do you want to eliminate gross negligence? This is a policy decision of the Committee. **CHAIRMAN CRIPPEN.** I won't accept a motion on the amendments as they are not in their proper form. Current law has that limitation in it, and I want to make it clear that liability would still apply, but I would go along with the wishes of the Committee.

SEN. DOHERTY. We need a redraft showing what we've done to the bill so far, as my bill is a mess now. The overriding question is what kind of immunity we're giving them or whether to give them any immunity at all.

VICE CHAIRMAN GROSFIELD. If it is okay with the Committee I would move the handwritten amendments with the understanding that **Valencia Lane** would redraft a gray bill for tomorrow so we can read what we've done. **CHAIRMAN CRIPPEN.** Then we would come back with a gray bill and a clean, unchanged copy of the bill for comparison

Motion/Vote: VICE CHAIRMAN GROSFIELD MOVED TO ADOPT THE HANDWRITTEN AMENDMENTS AND HAVE VALENCIA LANE DRAFT A GRAY BILL FOR REVIEW TOMORROW. THE MOTION CARRIED UNANIMOUSLY.

No further action was taken on HB 68 this date.

EXECUTIVE ACTION ON HB 268

Amendments: hb026803.avl - EXHIBIT 5

Valencia Lane. Amendments hb026803.avl give coordination instructions and remove "recommended by the department of corrections and included in the sentence" (EXHIBIT 5).

Motion: SEN. ESTRADA MOVED THE AMENDMENTS BE ADOPTED.

Discussion: VICE CHAIRMAN GROSFIELD. What is the point of putting both Title 45 and 46 in the bill? What is it going to be used under? **Valencia Lane.** The problem is pride of authorship in the individual bills. **REP. KOTTEL** believes it should be in Title 46, as part of rehabilitation. **SEN. JENKINS** put it in Title 45 as part of the correction of punishment. **John MacMaster** believes it belongs in Title 45, as the way they want it is not good public policy.

SEN. ESTRADA. **SEN. JENKINS** was in here earlier, and wants the bill passed as it is.

VICE CHAIRMAN GROSFIELD. What's the status of SB 31? **CHAIRMAN CRIPPEN.** It is either on or has passed second reading in the House.

SEN. HALLIGAN. We ought to honor the wishes of both individuals, but the Committee needs to take charge. I believe **REP. KOTTEL's** bill is much better, and that this belongs in Title 46. **CHAIRMAN**

CRIPPEN. We can pass both bills out, and make both of them happy, and deal with this later on.

SEN. DOHERTY. What if we don't put a coordination amendment on, and they both pass. Then the Governor gets to be the tie-breaker. Neither one has really given us much direction. Is the House considering a coordination amendment to SEN. JENKINS' bill? I'd like to carry this on the floor.

SEN. BARTLETT. The parole and probation officers do pre-sentencing investigations upon which judges make decisions. so, I believe we need to give the Department of Corrections direction to look at this issue. CHAIRMAN CRIPPEN. Won't they be involved in pre-sentencing investigations anyway? SEN. BARTLETT. Yes, but there is no incentive for them to look at chemical treatment of sex offenders.

Vote: SEN. ESTRADA'S MOTION TO ADOPT THE AMENDMENTS CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SENATORS BARTLETT, BISHOP, DOHERTY, AND HALLIGAN WHO VOTED NO.

Motion/Vote: SEN. ESTRADA MOVED THAT HB 268 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SEN. BARTLETT WHO VOTED NO.

EXECUTIVE ACTION ON HB 44

Amendments: hb004404.avl (EXHIBIT #6)

Discussion: Valencia Lane. In prior executive action, the Committee amended the bill to \$1.60 and gave victims priority for payment of restitution.

Motion/Vote: VICE CHAIRMAN GROSFIELD MOVED TO RECONSIDER THE COMMITTEE'S ACTION ON SEN. BARTLETT'S AMENDMENTS 1, 3 AND 4. THE MOTION CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SEN. DOHERTY WHO VOTED NO.

Motion: VICE CHAIRMAN GROSFIELD MOVED TO ADOPT 1, 2 AND 4 OF hb004404.avl, CHANGING "MAY" TO "MUST". THE MOTION CARRIED UNANIMOUSLY.

CHAIRMAN CRIPPEN. Have you given any thought to striking the New Section 2 concerning financials?

Motion: SEN. BARTLETT MOVED TO STRIKE NEW SECTION 2 IN ITS ENTIRETY, AND TO MAKE NECESSARY CHANGES IN THE TITLE AND IN SECTION 3.

SEN. BARTLETT. I have a problem when third parties are involved, although third parties are not always involved, and I am concerned a bit about the liability of the State on page 2, line 5, Subsection (B). SEN. HOLDEN. We're dealing with rapists, drug dealers, and criminals and we should have the right to

Amendments to House Bill No. 268
Third Reading Copy

Requested by Rep. Jenkins
For the Committee on the Judiciary

Prepared by John MacMaster
March 7, 1997

1. Page 3, line 16.

Strike: "recommended by the department of corrections and
included in the sentence"

Insert: "[the person is subject to the provisions of [section 1
of Senate Bill No. 31]]"

2. Page 3, line 17.

Following: "also"

Insert: "[, as provided in [section 1 of Senate Bill No. 31],] "

3. Page 6, line 2.

Strike: "recommended by the department of corrections and
included in the sentence"

Insert: "[the person is subject to the provisions of [section 1
of Senate Bill No. 31]]"

4. Page 6, line 3.

Following: "also"

Insert: "[, as provided in [section 1 of Senate Bill No. 31],] "

5. Page 6, line 15.

Insert: "NEW SECTION. Section 2. Coordination instruction. (1)

If [section 1] of Senate Bill No. 31 is not passed and approved, then the bracketed language in that part of [section 1 of this act] that amends 46-18-201(10), in both versions, is void and the phrase "recommended by the department of corrections and included in the sentence" must be reinserted.

(2) If [section 1] of Senate Bill No. 31 is passed and approved, then:

(a) the words "medically safe" are inserted after "sentenced to undergo" in each place in which that phrase appears in subsections (1) through (3) of [section 1] of Senate Bill No. 31;

(b) the words "or other medically safe drug treatment that reduces sexual fantasies, sex drive, or both" are inserted after the word "equivalent" in each place in which "equivalent" appears in subsections (1) and (2) of [section 1] of Senate Bill No. 31; and

(c) the words "or other medically safe drug treatment that reduces sexual fantasies, sex drive, or both," are inserted after the word "equivalent" in subsection (3) of [section 1] of Senate Bill No. 31."

Renumber: subsequent section



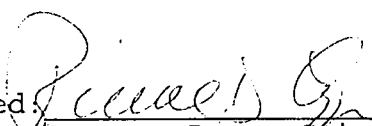
SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 14, 1997

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill 268 (third reading copy -- blue), respectfully report that House Bill 268 be amended as follows and as so amended be concurred in.

Signed


Senator Bruce Crippen, Chair

That such amendments read:

1. Page 3, line 16.

Strike: "recommended by the department of corrections and included in the sentence"

Insert: "[the person is subject to the provisions of [section 1 of Senate Bill No. 31]]"

2. Page 3, line 17.

Following: "also"

Insert: "[, as provided in [section 1 of Senate Bill No. 31],]"

3. Page 6, line 2.

Strike: "recommended by the department of corrections and included in the sentence"

Insert: "[the person is subject to the provisions of [section 1 of Senate Bill No. 31]]"

4. Page 6, line 3.

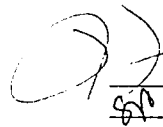
Following: "also"

Insert: "[, as provided in [section 1 of Senate Bill No. 31],]"

5. Page 6, line 15.

Insert: "NEW SECTION. Section 2. Coordination instruction. (1)
If [section 1] of Senate Bill No. 31 is not passed and approved, then the bracketed language in that part of [section 1 of this act] that amends 46-18-201(10), in both versions, is void and the phrase "recommended by the department of corrections and included in the sentence" must be reinserted.

(2) If [section 1] of Senate Bill No. 31 is passed and approved, then:

 Amd. Coord.

 Sec. of Senate

 Senator Carrying Bill

561637SC.SRF

(a) the words "medically safe" are inserted after "sentenced to undergo" in each place in which that phrase appears in subsections (1) through (3) of [section 1] of Senate Bill No. 31;

(b) the words "or other medically safe drug treatment that reduces sexual fantasies, sex drive, or both" are inserted after the word "equivalent" in each place in which "equivalent" appears in subsections (1) and (2) of [section 1] of Senate Bill No. 31; and

(c) the words "or other medically safe drug treatment that reduces sexual fantasies, sex drive, or both," are inserted after the word "equivalent" in subsection (3) of [section 1] of Senate Bill No. 31."

Renumber: subsequent section

-END-

**MONTANA SENATE
1997 LEGISLATURE
JUDICIARY COMMITTEE**

ROLL CALL

DATE _____

3-14-97

[illegible]

SEN:1995
wp.rollcall.man
CS-09

HOUSE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 19, 1997

OF THE DISTRICT COURT FEE FOR APPEALS FROM COURTS OF LIMITED JURISDICTION AND FOR APPEARING AS A LITIGANT IN A CONTESTED ESTATE PROCEEDING: AND AMENDING SECTIONS 25-1-201 AND 25-10-405, MCA" for the following reasons.

House Bill 195 requires, among other things, that state agencies pay \$45 each time they file with a clerk of court a warrant for distraint, a certificate of lien, or an abstract of an administrative order.

I do not disagree with the substance of the bill. However, its operation will result in projected additional costs to agency budgets of over \$280,000 for the biennium. This is a sum that current agency budgets cannot absorb, and, since there is no funding provided in the bill, I offered an amendment to the bill on April 11, 1997, which would have prevented the law from becoming effective unless there is an appropriation for adequate funding.

My proposed amendment was not adopted.

The difficult task of carefully and thoughtfully funding essential government services can be resolved, but not without making choices among competing priorities. In my view, there are higher priorities than House Bill 195 to which the State must dedicate its limited resources.

Sincerely,

MARC RACICOT
Governor

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

April 18, 1997

The Honorable Gary Aklestad
President of the Senate
State Capitol
Helena MT 59620

Dear Speaker Mercer and President Aklestad:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto House Bill 268, **"AN ACT PROVIDING FOR MEDROXYPROGESTERONE ACETATE TREATMENT OR ITS CHEMICAL EQUIVALENT FOR CERTAIN SEX OFFENDERS; AMENDING SECTION 46-18-201, MCA; AND PROVIDING AN APPLICABILITY DATE"** for the following reasons.

House Bill 268 authorizes chemical treatment for certain sex offenders at an estimated cost of \$181,555 in fiscal year 1999. Funding to cover this cost has not been provided.

As I have stated in my veto message on Senate Bill 31, the legislative and executive branches have worked very hard to provide sufficient funding for the Department of Corrections, an agency that has historically been underfunded. I cannot agree to add this unfunded responsibility to a department, the resources of which are strained to a filament.

HOUSE JOURNAL
EIGHTY-FOURTH LEGISLATIVE DAY - APRIL 19, 1997

Sincerely,

MARC RACICOT
Governor

The Honorable Gary Aklestad
President of the Senate
State Capitol
Helena MT 59620

April 18, 1997

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

Dear President Aklestad and Speaker Mercer:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto Senate Bill 31, **"AN ACT PROVIDING FOR CHEMICAL TREATMENT OF CERTAIN SEX OFFENDERS; AND PROVIDING APPLICABILITY DATES"** for the following reasons.

Senate Bill 31 provides for chemical treatment of certain sex offenders, the costs of which treatment would be paid for by the Department of Corrections.

On March 31, 1997, I returned the bill with a proposed amendment that would make the act void if funding was not provided in House Bill 2 to cover corresponding costs. The amendment was not adopted, leaving the Department of Corrections facing estimated costs amounting to \$77,126 for fiscal year 1988 and \$319,028 for fiscal year 1999.

The legislative and executive branches have worked very hard to provide sufficient funding for the Department of Corrections, an agency that has historically been underfunded. I cannot agree to add this unfunded responsibility to a department, the resources of which are strained to a filament.

Sincerely,

MARC RACICOT
Governor

The Honorable Gary Aklestad
President of the Senate
State Capitol
Helena MT 59620

April 18, 1997

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620